

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY BOARD OF REAL
ESTATE APPRAISERS

IN THE MATTER OF THE LICENSE OF	:	
	:	Administrative Action
JOHN V. NGUYEN	:	
License # 42RC00199500	:	FINAL ORDER
	:	OF DISCIPLINE
TO ENGAGE IN THE PRACTICE OF	:	
REAL ESTATE APPRAISING IN	:	
THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey Board of Real Estate Appraisers (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

1. John V. Nguyen ("Respondent") is a State Certified Residential Real Estate Appraiser, in the State of New Jersey and has been a licensee at all times relevant hereto.

2. Pursuant to N.J.S.A. 45:14F-18 and N.J.A.C. 13:40A-5.3, all licensed and certified real estate appraisers are required to complete all continuing education requirements established by "The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria" promulgated by the

Appraisal Qualifications Board of the Appraisal Foundation (the "AQB"). The AQB requirements are incorporated by reference in the Board's regulations. For the two year period between January 1, 2010 and December 31, 2011, the AQB Qualification Criteria mandated that appraisers complete a minimum of twenty-eight (28) class hours of approved continuing education.

3. Pursuant to N.J.A.C. 13:40A-5.4, all licensed and certified appraisers are required to complete a seven hour National Update Course on the Uniform Standards of Professional Appraisal Practice ("USPAP"), or its equivalent, at least once every 24 months. The AQB Qualification Criteria similarly mandate that appraisers must successfully complete the seven hour USPAP Update Course, or its equivalent, every two calendar years.

4. Pursuant to N.J.A.C. 13:40A-5.8, licensees or certificate holders are required to maintain documentation for at least four years of continuing education hours completed in order to verify program attendance and/or activity completion.

5. On or about November 29, 2011, Respondent completed and submitted an online biennial license renewal form, for the period January 1, 2012 through December 31, 2013, and Respondent's license was then renewed through December 31, 2013.

6. Respondent was asked on the biennial renewal application whether Respondent "completed the continuing education requirement during the past two years," referring to the biennial renewal period of January 1, 2010 through December 31, 2011. The renewal application included specific instructions regarding this question, which read:

As a condition of renewal, licensees are required to obtain at least 28 credit hours of approved continuing education for each biennial renewal period subsequent to licensure/certification or 14 hours of continuing education if initially licensed or certified in the first six months of the second year. If initially licensed or certified during the last six months of the second year, no continuing education is required. If you are exempt from this requirement for this renewal period only, please answer "yes" to this question. Credits may not be carried over to another renewal period.

Respondent answered "yes" to the question.

7. Respondent was asked on the biennial renewal form whether Respondent successfully completed the seven hour National USPAP Update Course, or its equivalent, during the past two years, referring to the biennial period of January 1, 2010 through December 31, 2011. The renewal application included specific instructions regarding this question, which read:

As a condition of renewal, licensees must successfully complete the seven-hour National USPAP Update Course, or its equivalent, at a minimum of every two years. Equivalency shall be determined through the AQB Course

Approval Program or by an alternate method established by the AQB.

Respondent answered "yes" to this question.

8. Respondent certified, when submitting the renewal application, that all of the information on the renewal form was true and complete to the best of Respondent's knowledge, and acknowledged awareness that if any of the information submitted was willfully false, Respondent would be subject to punishment and/or disciplinary sanction to include license suspension or revocation or the imposition of civil penalties as provided by law.

9. After January 1, 2012, the Board commenced a continuing education audit, asking a random sampling of its licensees to submit documentation to verify completion of required continuing education. Respondent was selected for inclusion within the continuing education audit.

10. On or about February 22, 2012, all licensees selected for inclusion in the audit were sent a notice, by regular mail, addressed to the address of record that the licensee maintained with the Board, advising of the need to supply copies of documentation maintained to verify continuing education hours claimed.

11. In response to the audit, Respondent supplied documentation verifying Respondent's completion of seven (7) hours of approved continuing education, including completion of a seven hour USPAP Update Course, or its equivalent. In addition, Respondent submitted email confirmations indicating that Respondent registered for fifteen and a half (15.5) hours of continuing education. However, Respondent did not provided any course completion certificates for these courses. Proof of registration is not an acceptable substitute for course completion certificates as they do not prove actual attendance or completion.

CONCLUSIONS OF LAW

Respondent failed to demonstrate, to the satisfaction of the Board, completion of the required twenty-eight (28) hours of approved continuing education for the two year period between January 1, 2010 and December 31, 2011. While Respondent was able to verify seven (7) hours of approved continuing education, Respondent failed to demonstrate completion of twenty-one (21) hours of required continuing education. The Board therefore found Respondent in violation of N.J.A.C. 13:40A-5.3, which in turn subjected Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and 45:1-21(h).

Based on the above findings and conclusions, the Board further found that Respondent falsely certified on the renewal application that all responses to all questions that were asked on that application were true. By doing so, the Board found that Respondent engaged in misrepresentation, and was therefore subject to sanction pursuant to N.J.S.A. 45:1-21(b).

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD") was entered on December 20, 2012 provisionally suspending Respondent's license to practice real estate appraising in the State of New Jersey and provisionally imposing a civil penalty in the amount of one thousand five hundred dollars (\$1,500). Copies were served upon Respondent via regular and certified mail at Respondent's address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

In response to the Provisional Order, Respondent stated that he was not certain of the total amount of hours needed to meet the continuing education requirements and that he found the requirements confusing. He submitted documentation indicating that he completed the course "Business Practices and Ethics" on September 24, 2010. The Board has approved that course for five hours of continuing education. He submitted another certificate of completion indicating that he completed two hours of continuing education on January 19, 2013. All other documentation submitted was in the form of payment confirmations, which merely confirm that Respondent registered for courses and paid for courses, but do not confirm that Respondent actually attended and completed the courses.

Respondent's submissions were reviewed by the Board, and the Board determined that further proceedings were not necessary. Respondent has been a Certified Residential Real Estate Appraiser in the State of New Jersey since August of 2007. Licensees have a duty to learn and abide by the regulations that govern their practice. A licensee must complete twenty-eight hours of continuing education, including a seven hour USPAP Update course, in the two years prior to the expiration date which appears on the licensee's

license/certification. Additionally, a licensee must maintain documentation, in the form of certificates of completion, not receipts for registration, for a minimum of four years and must provide copies to the Board if so requested. Respondent demonstrated completion of twelve hours of continuing education completed during the biennial period of January 1, 2010 - December 31, 2011: five hours for the Business Practice and Ethics class completed on September 24, 2010; and seven hours for the USPAP Update course on December 4, 2011.

WHEREFORE, it is on this 18th day of March, 2013

ORDERED that:

1. Respondent's certification to practice real estate appraising in the State of New Jersey is hereby suspended until Respondent provides proof of completion of sixteen (16) hours of continuing education to be applied to the January 1, 2010 - December 31, 2011 biennial period. Continuing education hours completed after December 31, 2011 and applied to cure the deficiency from the previous biennial period shall not be used to satisfy the requirements of the current biennial period. Respondent shall complete an additional twenty-eight (28) hours of continuing education prior to December 31, 2013 to satisfy the requirements of the current biennial period.

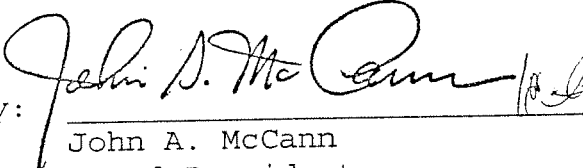
2. Respondent is hereby assessed a civil penalty in the amount of one thousand two hundred and fifty dollars (\$1,250). Said penalty is an aggregate penalty, which includes a penalty in the amount of five hundred dollars (\$500) for having provided a false answer to one question on the biennial renewal application (that is, falsely claiming completion of twenty eight (28) hours of continuing education credit); and seven hundred and fifty dollars (\$750) for failing to have completed sixteen hours of required continuing education.

Payment shall be made by certified check or money order payable to "State of New Jersey," delivered or mailed to Charles Kirk, Executive Director, State Board of Real Estate Appraisers, P.O. Box 45032, Newark, New Jersey 07101. Payment shall be made no later than 15 days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

3. Respondent shall refrain from practicing as a real estate appraiser and shall not represent himself as a State licensed or certified real estate appraiser until such time as Respondent's license is reinstated. Any practice in this State

prior to reinstatement shall constitute grounds for a charge of
unlicensed practice.

NEW JERSEY STATE REAL
ESTATE APPRAISER BOARD

By: 
John A. McCann
Board President